



**THE ATTORNEY GENERAL
OF TEXAS**

March 31, 1987

**JIM MATTOX
ATTORNEY GENERAL**

Andrew F. Payer, Ph.D.
Secretary/Treasurer of the
Anatomical Board of the State
of Texas
University of Texas Medical Branch
Galveston, Texas 77550

Opinion No. JM-663

Re: Whether the Texas Anatomical
Board may transport dead bodies
out of the United States

Dear Dr. Payer:

You ask whether the Anatomical Board of the State of Texas has authority to transfer dead bodies outside of the United States.

The legislature created the Anatomical Board for the purpose of distributing and delivering dead human bodies to institutions and individuals authorized to receive them. V.T.C.S. art. 4583a, §2(a). Article 4585, V.T.C.S., governs the distribution of dead bodies:

(a) The board, or their duly authorized agents, may take and receive such bodies so delivered as aforesaid, and shall, upon receiving them, distribute and deliver them to and among the schools, colleges, physicians and surgeons aforesaid, including chiropractic colleges, in the manner following: Those bodies needed for lecture and demonstration in the said incorporated schools and colleges shall first be supplied; the remaining bodies shall then be distributed proportionately and equitably, the number assigned to each to be based upon the number of students receiving instruction or demonstration in normal or morbid anatomy and operative surgery, which number shall be certified by the dean of each school or college to the board at such times as it may direct. Instead of receiving and delivering said bodies themselves through their agent or servant, the said board may, from time to time, either directly or by their designated officer or agent authorize physicians and surgeons to receive them, and the number which each shall receive.

(b) The board may receive a body transported to the board from outside this state.

(c) The board may transport a body to another state in which there is a shortage of bodies if the other state has agreed to ship bodies to this state when the other state has a surplus of bodies and the board determines that there is a shortage of them in this state and if:

(1) the body is that of a person who, prior to death, in compliance with Article 4584, Revised Statutes, bequeathed his body for the purpose of enhancement of medical science and at the time of the bequest authorized the board to transport the body outside of this state; or

(2) the body was donated in compliance with the Texas Anatomical Gift Act (Article 4590-2, Vernon's Texas Civil Statutes) and the person authorized by Subsection (b) of Section 3 of that Act to make the donation also authorized the board to transport the body outside of this state. (Emphasis added).

See also V.T.C.S. art. 4586 (regulations for transporting dead bodies); art. 4587 (regulations governing dissection of bodies).

An administrative agency has no inherent powers. See Board of Insurance Commissioners v. Guardian Life Insurance Co., 180 S.W.2d 906, 908 (Tex. 1944). Agencies may only exercise those powers granted by statute, together with those necessarily implied from the statutory authority conferred or duties imposed. City of Sherman v. Public Utility Commission, 643 S.W.2d 681, 686 (Tex. 1983). Article 4585(c) states that the board may transport

a body to another state in which there is a shortage of bodies if the other state has agreed to ship bodies to this state when the other state has a surplus of bodies and the board determines that there is a shortage of them in this state. . . . (Emphasis added).

We think that the "state" in those provisions means a state in the United States. See Big H. Auto Auction, Inc. v. Saenz Motors, 665 S.W.2d 756 (Tex. 1984) (if legislature does not define a statutory term, its ordinary meaning applies). The legislature used the phrase "outside of this state" several times in article 4585, but in describing the destinations to which the board could send bodies it

chose the phrase "to another state." If the legislature had intended to give the board authority to send bodies anywhere in the world, it could have used the phrase it had already used several times in article 4585 and provided that the board could ship dead bodies "outside of the state." Therefore, we conclude that the Anatomical Board has no authority to send dead bodies to foreign countries.

S U M M A R Y

The Anatomical Board of the State of Texas
has no authority to transport dead bodies to
foreign countries.

Very truly yours,

A handwritten signature in black ink that reads "Jim Mattox". The signature is written in a cursive, slightly slanted style. The first name "Jim" is written with a large, looped "J" and a small "i". The last name "Mattox" is written with a large "M" and a long, sweeping "x" at the end.

J I M M A T T O X
Attorney General of Texas

JACK HIGHTOWER
First Assistant Attorney General

MARY KELLER
Executive Assistant Attorney General

JUDGE ZOLLIE STEAKLEY
Special Assistant Attorney General

RICK GILPIN
Chairman, Opinion Committee

Prepared by Sarah Woelk
Assistant Attorney General